

FILED
CHARLOTTE, NC
APR - 2 2009
U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

Misc. No. 3: 09 mc 46

IN RE: THE APPOINTMENT
 OF DAVID S. CAYER, AS A FULL-TIME
 UNITED STATES MAGISTRATE JUDGE
 FOR THE WESTERN DISTRICT OF NORTH CAROLINA

ORDER

THIS MATTER is before the Court upon receipt of the report of a Merit Selection Panel which was appointed to assist the district judges in selecting for a United States Magistrate Judge for the Western District of North Carolina. The Panel named five nominees to be considered for this position and the Court has selected David S. Cayer to be appointed to the office of United States Magistrate Judge in Charlotte, North Carolina.

It appears that the Panel and the Court have fully complied with the applicable regulations promulgated by the Judicial Conference of the United States in accordance with the Federal Magistrate's Act of 1979, as amended, by the issuance of a public notice of the position and the convening of the Merit Selection Panel.

After considering the report of the Panel, the Court has found and determined as a fact that David S. Cayer, a nominee of the Panel, is a member in good standing of the highest court of the State of North Carolina; is competent to perform the duties of the office of United States Magistrate Judge; is not related by blood or marriage to a judge of this Court; will hold no civil or military office or employment under the United States prescribed by 28 United States Code, Section 631(c); and is under the age of 70 years.

It further appears that, based upon the Panel's recommendation and the Court's review and findings, David S. Cayer has taken the oath prescribed by 28 U.S.C. §453 and 631(g) and has been appointed to the position of full-time United States Magistrate Judge in the Western District of North Carolina, with his duty station in Charlotte, North

Carolina, for a term of eight (8) years, said term having commenced on April 2, 2009.


THEREFORE, IT IS HEREBY ORDERED that, David S. Cayer, is authorized:

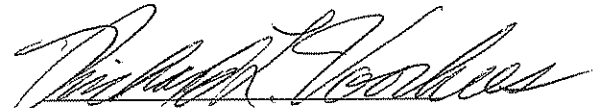
- (1) To perform the duties prescribed in 28 U.S.C. §636(a);
- (2) To try and, if found guilty, to sentence persons charged with petty offenses and misdemeanors, and to direct the probation office to prepare a presentence report in any such case as provided by 19 U.S.C. §3401;
- (3) To hear and decide non-dispositive procedural or discovery motions and other pretrial matters in civil and criminal cases, as provided by 28 U.S.C. §636(b)(1)(A);
- (4) To hear any dispositive motions in civil and criminal cases, and thereafter to submit to the District Court proposed findings of fact and recommendations for disposition of such motions, as provided by 28 U.S.C. §636(b)(1)(B);
- (5) To issue preliminary orders and conduct necessary evidentiary hearings or other appropriate proceedings in connection with cases filed pursuant to 28 U.S.C. §2254 and §2255, and to submit to the District Court a report containing proposed findings of fact and recommendations for disposition of such cases (unless consent is obtained for final disposition by order as hereinafter provided);
- (6) To serve as a Special Master in appropriate civil cases in accordance with 28 U.S.C. §636(b)(2) and Rule 53 of the Federal Rules of Civil Procedure;
- (7) Upon the consent of all parties, to conduct jury voir dire in civil cases when designated by the District Court to do so on a case-by-case basis;
- (8) To accept returns of true bills of indictment from the Grand Jury and to impanel a new grand jury by administering the proper oaths;
- (9) Upon the consent of all parties, to conduct allocution proceedings to accept guilty pleas under Federal Rule Criminal Procedures 11;
- (10) To accept petit jury verdicts in civil cases in the absence of a District Court Judge;

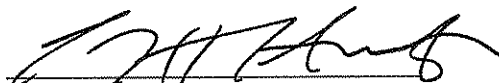
- (11) Upon the consent of all parties, to conduct any and all proceedings in civil jury or non-jury cases, including conducting trial and ordering entry of judgment, as authorized by 28 U.S.C. §636(c);
- (12) To issue orders or warrants authorizing acts necessary in the performance of the duties of administrative and regulatory agencies and departments of the United States Government; and
- (13) To perform any additional duties that are not inconsistent with the Constitution or laws of the United States, as shall be assigned or delegated by the District Court.


This Order shall be entered of record in the minutes of this court and the Clerk is hereby ordered to send two certified copies to the Director of the Administrative Office of the United States Courts as required by 28 U.S.C. §631(g). A certified copy of this Order shall also be issued to David S. Cayer and shall constitute his commission.

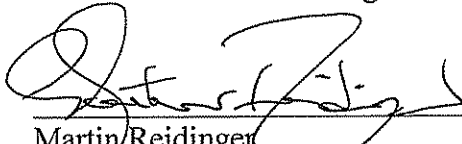
This the 30th day of January, 2009.

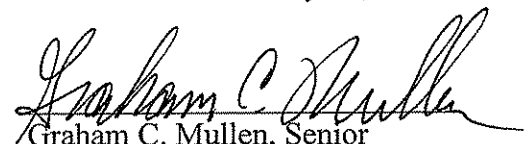

Robert J. Conrad, Jr., Chief
United States District Judge


Richard L. Voorhees
United States District Judge


Lacy H. Thornburg
United States District Judge


Frank D. Whitney,
United States District Judge


Martin Reidinger
United States District Judge


Graham C. Mullen, Senior
United States District Judge